

REMARKS

Applicant amends claim 1 and claims 1-5 are pending in this application. Applicant respectfully requests allowance of all the pending claims.

Claim Rejections – 35 U.S.C. §103(a)

The Examiner rejects claims 1-5 under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,145,260 (“Morton”) in view of United States Patent No. 5,002,620 (“King”).

Claim 1 recites a retaining wall including a base and a wall assembly supported on the base. The base is formed from a first row of building blocks and the wall assembly includes a plurality of vertically stacked rows of building blocks formed of fiber reinforced cellular cementitious material. The wall assembly includes a front face and a rear face and a plurality of spaced apart elongated vertically extending reinforcing strips fixed to one of the front face and the rear face. The reinforcing strips are each secured to the wall assembly by a plurality of fasteners. Each of the fasteners is either a nail or screw extended through one of the reinforcing strips and driven directly into one of the building blocks to mechanically join the reinforcing strip and the building block together.

The high-performance fiber reinforced cellular concrete products of the present invention possess enhanced workability characteristics allowing nails and screws to be driven directly into the fiber reinforced cellular concrete. Previously, the physical characteristics of cellular concrete products did not allow these advantages.

With reference to Figs. 1-4, Morton discloses a concrete block retaining wall (W) reinforced by elongated plates (10) fastened to the blocks (B) by a bonding resin (11) and mechanical fasteners (13, 21). The mechanical fasteners (13, 21) are *anchored into receiving sockets (not shown) bored in the blocks (B)* (See col. 6, lines 48-60, col. 7, lines 8-13, lines 25-28, and lines 34-36).

King discloses using fiber reinforced cellular concrete for building materials.

The Examiner submits that it would have been obvious to one having ordinary skill in the art to substitute the concrete blocks of Morton with the fiber reinforced cellular concrete blocks of King and that this combination teaches all of the limitations of the claims.

Applicant respectfully submits that even if the references can be combined as identified by the Examiner, the proposed combination does not teach or suggest all of the limitations of the claims.

For example, Morton does not teach or suggest a nail or screw extended through one of the reinforcing strips and *driven directly into one of the building blocks* to mechanically join the reinforcing strip and the building block together. Rather, Morton discloses extending a mechanical fastener (13, 21) through a plate (10) and *driving the mechanical fastener (13, 21) into an anchor* (not shown) positioned within a pre-drilled bore (not shown) in the block (B) (See col. 6, lines 48-60, col. 7, lines 8-13, lines 25-28, and lines 34-36).

This distinction between Morton and claim 1 highlights the advantages of the present invention. Because the nails or screws of the claimed invention can be directly driven into the blocks, there is no need to pre-drill bores into the blocks for receiving anchors into which fasteners are to be driven (as disclosed in Morton). These advantages of the present invention allow the freedom to drive a nail or screw at any desired location along the blocks, not just where a bore has been pre-drilled.

King does not teach or suggest the use of mechanical fasteners and therefore does not cure the deficiencies of Morton.

For these reasons, Morton and King, alone or in combination, do not teach or suggest all of the claim limitations of claim 1. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of claim 1 based upon the prior art as required by 35 U.S.C. §103.

Accordingly, claim 1 is allowable. Claims 2-5 depend from allowable independent claim 1 and are therefore also allowable for these and other reasons.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-5 and allowance of claims 1-5.

The Examiner is invited to contact the undersigned attorney should the Examiner determine that such action would facilitate the prosecution and allowance of the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Glen A. Weitzer". The signature is fluid and cursive, with a large, stylized "F" at the end.

Glen A. Weitzer
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